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Attorney for the Material Witness(es)

United States District Court
Southern District of California

(Hon. Barbara L. Major)

UNITED STATES OF AMERICA,)	Criminal Case No. 08CR0300DMS(BLM)
)	
Plaintiff,)	Declaration Of Attorney Ned Lynch In
)	Support Of The Material Witness' Motion
v.)	For Videotape Depositions And Their
)	Release From Custody
DIEGO COLIO-JIMENEZ, et al.)	
)	Date: April 3, 2008
Defendant.)	Time: 9:00 a.m.
)	Judge: Barbara L. Major
)	Room: A

I, Ned Lynch, declare:

1. I am an attorney duly licensed to practice law in the State of California and before the United States District Court for the Southern District of California.

2. On January 28, 2008 attorney Marilyn B. Gunner was appointed to represent material witnesses Erika Garcia-Martinez, Damian Garcia-Garcia, and Jane DOE (Nieves Montano-Salas) [the "Material Witnesses"] in the case noted above. I have agreed to specially appear in this case for Ms. Gunner. I am familiar with the facts of this case and the Material Witnesses. As material witness attorneys, one of our primary responsibilities is to help arrange for the release of the material witnesses from the custody as soon as practicable. To that end, Ms. Gunner and I have met with the Material Witnesses to explain why they were being detained and under what conditions they could be released. In most alien smuggling cases such as this one the material witnesses are released by having a personal surety post a court approved appearance

1 bond of \$5,000, and for the surety or family of the witness to also satisfy any other release conditions that
2 are imposed by U.S. immigration authorities. The same bond circumstances are true for this case for Mr.
3 Garcia. It appears at the time of filing this motion Ms. Garcia has not been arraigned, and Jane Doe has not
4 been arraigned.

5 3. Unfortunately, Mr. and Ms. Garcia (husband and wife) do not know anyone who legally
6 resides in the United States who is willing and able to post a bond for them. Ms. Gunner and I, and our
7 assistants have contacted the known relatives and friends of the Garcias, any of which might be able to help
8 the witnesses post a bond. Possible leads to find potential sureties have been explored, but as of the date of
9 filing this motion no qualified sureties have been located and approved for these witnesses to be released.
10 Thus, the Garcias are essentially being held in custody without bail, and they will continue to be held
11 indefinitely unless their videotape depositions are taken and they are released from custody. As to material
12 witness Jane Doe, she remains in the intensive care unit of a local hospital due to injuries sustained from an
13 vehicle accident pertaining to this case.

14 4. The Garcias detention is imposing an emotional, mental, and economic hardship on them
15 and their family. They are the parents of two young children who rely on them for support. Jane Doe has
16 also been separated from her family since the time of accident. The Material Witnesses will have been held
17 in custody over 10 weeks by the time this motion is heard.

18 5. I am not aware of any reason in this case why the Material Witnesses' testimony can not
19 adequately be secured by deposition.

20 6. The Material Witnesses are willing to testify about the facts they know relating to this case.
21 However, there are only a few facts relevant to this case which the witnesses are competent to testify about,
22 facts that are material and not cumulative to the proposed testimonies of the other witnesses in this case, i.e.,
23 facts about: (a) their citizenship, (b) who might have transported the witnesses, and (c) whether the witnesses
24 agreed to pay anyone.

25 I declare under penalty of perjury under the laws of the United States the above is true and correct
26 to the best of my knowledge.

27 Dated: March 19, 2008

S/Ned Lynch

Ned Lynch, specially appearing as the attorney for the Material Witnesses
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